

House Daily Reader

Tuesday, January 28, 2003

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State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

991I0170

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1006** -
01/24/2003

Introduced by: Representatives Smidt, Lange, and Michels and Senators Bogue, Dennert, and McCracken at the request of the Interim Rules Review

1 FOR AN ACT ENTITLED, An Act to permit the Department of Social Services to publish
2 certain fee schedules used in certain medical assistance programs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Department of Social Services may establish or amend fee schedules used to pay for
7 items and services covered by the medical assistance program under the provisions of this
8 chapter without following the procedures set forth in §§ 1-26-4 to 1-26-6, inclusive. The
9 department shall post the fee schedules on the department's website and shall notify website users
10 of pending changes by posting a notice of the pending changes on the website at least forty-eight
11 hours before the changes are made. Fee schedules posted on the department's website must be
12 in accordance with the department's administrative rules promulgated under the provisions of
13 chapter 1-26 which establish the reimbursement provisions for medical services.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0216

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1019** - 01/24/2003

Introduced by: The Committee on Judiciary at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to permit disclosure of certain information related to
2 intentional exposure to human immunodeficiency virus.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-22-12.1 be amended to read as follows:

5 34-22-12.1. ~~The reports~~ Any report required to be submitted pursuant to § 34-22-12 ~~shall~~
6 ~~be~~ is strictly confidential medical information. ~~Such reports may not~~ No report may be released,
7 shared with any agency or institution, or made public, upon subpoena, search warrant, discovery
8 proceedings, or otherwise ~~and are not~~. No report is admissible as evidence in any action of any
9 kind in any court or before any tribunal, board, agency, or person, ~~except that~~. However, the
10 Department of Health may release of medical or epidemiological information ~~may be made or~~
11 ~~authorized by the Department of Health~~ under any of the following circumstances:

- 12 (1) For statistical purposes in such a manner that no person can be identified;
13 (2) With the written consent of the person identified in the information released;
14 (3) To the extent necessary to enforce the provisions of this chapter and rules
15 promulgated ~~thereunder~~ pursuant to this chapter concerning the prevention,



1 treatment, control, and investigation of communicable diseases; ~~and~~

2 (4) To the extent necessary to protect the health or life of a named person;

3 (5) To the extent necessary to comply with a proper judicial order requiring release of
4 human immunodeficiency virus test results and related information to a prosecutor for
5 an investigation of a violation of § 22-18-31; and

6 (6) To the attorney general or an appropriate state's attorney if the secretary of the
7 Department of Health has reasonable cause to suspect that a person violated § 22-18-
8 31.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

770I0291

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB 1026** - 01/24/2003

Introduced by: The Committee on State Affairs at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to establish the regents scholarship program and to make
2 an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 There is established the regents scholarship program to be administered by the Board of
7 Regents. The purpose of the program is to allow South Dakota's most academically
8 accomplished high school graduates to receive an affordable education at any university, college,
9 or technical school that is accredited by the North Central Association of Colleges and Schools
10 and that provides instruction from a campus located in South Dakota.

11 Section 2. In order to be eligible for a regents scholarship award, a student shall:

- 12 (1) Be a resident of South Dakota at the time of graduation from high school;
13 (2) Have a composite score of 24, or higher, on the test administered by the American
14 College Testing Program or a verbal-mathematics score of 1070-1100, on the
15 Scholastic Assessment Test;



1 (3) Meet the high school course requirements as provided in Board of Regents Policy
2 Number 2:3(2)(F) as in effect on January 1, 2003;

3 (4) Attend a university, college, or technical school that is accredited by the North
4 Central Association of Colleges and Schools and that provides instruction from a
5 campus located in South Dakota; and

6 (5) Enter into the program within one year of graduation from high school or within one
7 year of the student's release from active duty with an active component of the armed
8 forces if the release is within five years of the student's graduation from high school.

9 A student is eligible to participate in the regents scholarship program for the equivalent of
10 four academic years (eight consecutive spring and fall terms) or until the attainment of a
11 baccalaureate or technical degree, whichever comes first. However, the executive director of the
12 Board of Regents may grant exceptions to the continuous enrollment requirements for good
13 cause shown.

14 Section 3. If it is determined that a student cannot complete the high school course
15 requirements as provided in Board of Regents Policy Number 2:3(2)(F) as in effect on January 1,
16 2003, due to the unavailability of the courses of study at the student's high school, the student
17 may be admitted into the regents scholarship program.

18 Section 4. One-half of the annual scholarship award shall be paid directly to the eligible
19 student at the beginning of the fall or spring semester. The amount of the annual award shall be
20 as follows:

21 (1) One thousand dollars for the first year of attendance;

22 (2) One thousand dollars for the second year of attendance;

23 (3) One thousand five hundred dollars for the third year of attendance;

24 (4) Two thousand five hundred dollars for the fourth year of attendance.

1 The total amount of the scholarship may not exceed six thousand dollars.

2 Section 5. In order to maintain eligibility, a student shall:

3 (1) Maintain a cumulative 3.0 grade point average on a 4.0 scale. Cumulative grade point
4 average shall be calculated after the second semester and every semester thereafter.

5 The student shall complete consecutive spring and fall terms in order to remain
6 eligible for continuation of the scholarship program from term to term. Once a
7 student's cumulative grade point average falls below 3.0 on a 4.0 scale, the student
8 permanently loses eligibility for continuation in the scholarship program;

9 (2) Complete fifteen credit hours of instruction per semester. The student shall enroll in
10 and complete at least fifteen credit hours of instruction in each consecutive spring and
11 fall term. If the executive director of the Board of Regents determines that a student's
12 failure to enroll or to maintain continued enrollment occurred as a direct result of
13 legitimate factors outside the student's control, or has resulted from the student's
14 participation in an activity that in the executive director's judgment provides
15 knowledge or experience that will enhance the student's academic pursuits, the
16 executive director may extend the student's eligibility to participate in the program for
17 up to two additional years, if the student does not enroll in a noneligible institution;
18 and

19 (3) Sit for and pass all sections of a college proficiency exam as required by Board of
20 Regents Policy Number 2.28 as in effect on January 1, 2003, at the end of the
21 sophomore year. The Board of regents may review and adjust the proficiency
22 examinations administered in keeping with sound academic practice. If such changes
23 are made, the Board of Regents shall notify all eligible institutions of new testing
24 standards or requirements. If the student fails to pass the proficiency examinations the

1 first time, eligibility is forfeited for continuation in the scholarship program.

2 Section 6. The Board of Regents may allocate funds appropriated by the Legislature or funds
3 generated by gifts, donations, grants, or endowments for the purposes of this Act to students
4 qualifying pursuant to section 2 of this Act.

5 Section 7. The provisions of section 3 of this Act are repealed on July 1, 2005.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

385I0027

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1055** - 01/24/2003

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to revise the authority of magistrate courts and to revise
2 certain provisions pertaining thereto.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 As used in this chapter, the term, magistrate, means a clerk magistrate or a magistrate judge
7 appointed under the authority of this chapter. Any magistrate judge appointed under the
8 authority of this chapter shall be licensed to practice law in the State of South Dakota.

9 Section 2. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 Pursuant to the provisions of S.D. Const., Art. V, § 4, there is hereby established within each
12 judicial circuit a magistrate court.

13 Section 3. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 Any magistrate court with a magistrate judge presiding is a court of record. However, no



1 magistrate court with a clerk magistrate presiding is a court of record.

2 Section 4. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 Subject to such rules as may be promulgated by the Supreme Court, the presiding circuit
5 judge in each judicial circuit shall appoint a sufficient number of magistrates as may be necessary
6 to provide adequate and qualified judicial personnel for each county and municipality in the
7 circuit.

8 Section 5. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Each magistrate shall be appointed by the presiding judge of the circuit court and serve at
11 the pleasure of the presiding judge. However, the Supreme Court may, by rule, provide that
12 magistrates may be appointed for a definite term.

13 Section 6. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The compensation of a magistrate shall be fixed by law and for such purpose the Supreme
16 Court in its annual consolidated budget for the Unified Judicial System shall make
17 recommendations relating thereto. The state shall provide from funds appropriated therefor for
18 the salaries and travel expenses of the magistrates of the circuit court.

19 Section 7. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
20 as follows:

21 Unless appeal is denied by law, there is a right of appeal to the circuit court from any final
22 order or judgment of the magistrate court, and such appeal shall be taken in the manner
23 prescribed by law or rule for appeals to the circuit court.

24 Section 8. That chapter 16-12A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Each county in the state shall provide suitable and adequate facilities for the magistrate court,
3 including the facilities necessary to make the space provided functional for its intended use.

4 Section 9. That chapter 16-12A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any municipality in the state may, at its discretion, and in cooperation with the presiding
7 judge of the circuit, provide suitable and adequate quarters for a magistrate court assigned
8 principally to serve the municipality, including the facilities necessary to make the space provided
9 functional for its intended use.

10 Section 10. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
11 as follows:

12 If the business of a magistrate court with a magistrate judge presiding becomes congested
13 or if a magistrate judge is, for any cause, unable to act, the Chief Justice of the Supreme Court
14 may, by order, temporarily transfer to such magistrate court a magistrate judge from another
15 circuit. The magistrate judge acting in a county other than one in his or her own circuit shall have
16 all the powers and duties of a magistrate judge regularly appointed and qualified therein.

17 Section 11. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
18 as follows:

19 Retired justices and judges, with their consent, may be authorized by the Chief Justice of the
20 Supreme Court to preside in any action or proceeding, or over any term of court, in the
21 magistrate court. If so authorized and acting, the orders, judgments, and decrees of that court
22 entered by such retired justice or judge are as effectual for all purposes as though made by a
23 regularly elected or appointed magistrate. The Supreme Court shall provide for the
24 reimbursement of their expenses.

1 Section 12. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
2 as follows:

3 A magistrate judge appointed pursuant to this chapter may solemnize marriages. The clerk
4 of courts shall collect a fee of twenty dollars for a magistrate's performance of a marriage. The
5 clerk of courts shall remit fees collected under this section to the state treasurer for deposit in
6 the state general fund.

7 Section 13. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
8 as follows:

9 A magistrate judge appointed pursuant to this chapter may administer oaths, take
10 acknowledgments, and depositions.

11 Section 14. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
12 as follows:

13 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
14 circuit courts to issue summonses, warrants of arrest, and warrants for searches and seizures.

15 Section 15. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
16 as follows:

17 No party may be deprived of the assistance of an attorney, at the party's expense, in small
18 claims or magistrate court.

19 Section 16. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
20 as follows:

21 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
22 circuit courts to fix bond or take personal recognizance of persons charged with an offense.

23 Section 17. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
24 as follows:

1 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
2 circuit courts:

3 (1) To accept defaults for petty offenses;

4 (2) To try contested cases involving a petty offense;

5 (3) To take pleas of guilty, not guilty, nolo contendere for any criminal offense; or

6 (4) To take pleas of guilty, not guilty, nolo contendere for violation of any ordinance,
7 bylaw, or other police regulation of a political subdivision;

8 if the punishment is a fine not exceeding one thousand dollars or imprisonment for a period not
9 exceeding one year, or both such fine and imprisonment and to impose sentence upon a plea of
10 guilty or nolo contendere. Acceptance of not guilty or nolo contendere pleas shall be in
11 accordance with §§ 23A-7-2 and 23A-7-8, as applicable.

12 Section 18. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
13 as follows:

14 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
15 circuit courts to take forfeitures of appearance bonds for violation of any ordinance, bylaw, or
16 other police regulation of a political subdivision.

17 Section 19. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
18 as follows:

19 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
20 circuit courts to act as a committing magistrate for all purposes.

21 Section 20. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
22 as follows:

23 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
24 circuit courts to try and determine all cases of misdemeanor and actions or proceedings for

1 violation of any ordinance, bylaw, or other police regulation of a political subdivision.

2 Section 21. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
3 as follows:

4 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
5 circuit courts to try and determine all small claim proceedings.

6 Section 22. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
7 as follows:

8 A magistrate court with a magistrate judge presiding has concurrent jurisdiction with the
9 circuit courts to try and determine all civil actions, if the debt, damage, claim, or value of the
10 property involved does not exceed ten thousand dollars. Any magistrate court with a magistrate
11 judge presiding has jurisdiction in small claims proceedings, if the debt, damage, claim, or value
12 of the property involved does not exceed eight thousand dollars.

13 Section 23. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
14 as follows:

15 A magistrate court with a magistrate judge presiding has jurisdiction, upon assignment of the
16 presiding judge of the circuit, to act in lieu of a circuit judge having jurisdiction heretofore
17 granted to county courts or district county courts or judges thereof in relation to the enforcement
18 or administration of the provisions of Titles 27A and 27B.

19 Section 24. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
20 as follows:

21 Except in small claims proceedings, a verbatim record of all proceedings and evidence at
22 trials before a magistrate court with a magistrate judge presiding shall be maintained either by
23 electrical devices or by stenographic means, as the magistrate may direct. However, if any party
24 to the action requests stenographic reporting of the proceedings, the reporting shall be done

1 stenographically. The requesting party in a civil matter shall pay the costs of reporting the
2 proceedings. If no record is kept, the appeal, if appeal is authorized by law, shall be de novo in
3 circuit court.

4 Section 25. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Unless appeal is denied by law, there is a right of appeal to the circuit court from any final
7 order or judgment of the magistrate court with a magistrate judge presiding, and such appeal
8 shall be taken in the manner prescribed by law or rule for appeals to the circuit court.

9 Section 26. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
10 as follows:

11 Any attorney who is a part-time magistrate judge may practice law under such conditions as
12 the circuit judges sitting en banc in the judicial circuit may provide, subject to Supreme Court
13 rule.

14 Section 27. That chapter 16-12B be amended by adding thereto a NEW SECTION to read
15 as follows:

16 No magistrate judge appointed on a full-time basis may act as counsel or be associated with
17 others as counsel in any court of this state. Each magistrate judge is bound by the Code of
18 Judicial Conduct adopted by the Supreme Court.

19 Section 28. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
20 as follows:

21 Any duly appointed clerk or any deputy clerk who meets the qualifications of a clerk
22 magistrate may be appointed as a clerk magistrate. Any clerk or deputy clerk who has been
23 appointed a clerk magistrate may act as such in any circuit of this state if placed on temporary
24 duty assignment in another circuit.

1 Section 29. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
2 as follows:

3 No person is eligible for appointment to the office of clerk magistrate unless such person is
4 a graduate of a high school or has attained the equivalent of a high school education as indicated
5 by the possession of a certificate of equivalency issued by the State Department of Education or
6 the former Department of Public Instruction or the former Division of Elementary and Secondary
7 Education based upon the record made on the general education development test.

8 Section 30. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
9 as follows:

10 No clerk magistrate may take office for the first time as a magistrate until such person has
11 attended an institute on the duties and functioning of the magistrate's office to be held under the
12 supervision of the Supreme Court, unless such attendance is waived by the Supreme Court.

13 Section 31. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The Supreme Court shall establish the institute and shall provide that the institute be held at
16 least once every two years. It may establish an institute at such other times and for such other
17 purposes as it deems necessary and may require the attendance of any clerk magistrate.

18 Section 32. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
19 as follows:

20 A clerk magistrate appointed pursuant to this chapter may solemnize marriages. The clerk
21 of courts shall collect a fee of twenty dollars for a clerk magistrate's performance of a marriage.
22 The clerk of courts shall remit fees collected under this section to the state treasurer for deposit
23 in the state general fund.

24 Section 33. That chapter 16-12C be amended by adding thereto a NEW SECTION to read

1 as follows:

2 A clerk magistrate appointed pursuant to this chapter has authority to administer oaths, take
3 acknowledgments, and depositions.

4 Section 34. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
5 as follows:

6 A magistrate court with a clerk magistrate presiding has concurrent jurisdiction with the
7 circuit courts to issue summonses, warrants of arrest, and warrants for searches and seizures.

8 Section 35. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
9 as follows:

10 No party may be deprived of the assistance of an attorney, at the party's expense, in small
11 claims or magistrate court.

12 Section 36. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
13 as follows:

14 A magistrate court with a clerk magistrate presiding has concurrent jurisdiction with the
15 circuit courts to act as a committing magistrate if voluntary and knowledgeable waiver of
16 preliminary hearing has been given before the court. The magistrate court may conduct
17 preliminary hearings as a committing magistrate unless demand is made by the defendant prior
18 to such hearing to have the hearing conducted before a magistrate judge or a circuit judge to be
19 assigned by the presiding judge.

20 Section 37. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
21 as follows:

22 A magistrate court with a clerk magistrate presiding has concurrent jurisdiction with the
23 circuit courts to fix bond or take personal recognizance of persons charged with an offense in
24 accordance with the schedule adopted pursuant to subdivision 16-2-21(8).

1 Section 38. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
2 as follows:

3 A magistrate court with a clerk magistrate presiding has concurrent jurisdiction with the
4 circuit courts:

5 (1) To accept defaults for petty offenses;

6 (2) To try contested cases involving a petty offense;

7 (3) To take pleas of guilty, not guilty, nolo contendere for any criminal offense; or

8 (4) To take pleas of guilty, not guilty, nolo contendere for violation of any ordinance,
9 bylaw, or other police regulation of a political subdivision;

10 if the punishment is a fine not exceeding two hundred dollars or imprisonment for a period not
11 exceeding thirty days, or both such fine and imprisonment and to impose sentence upon a plea
12 of guilty or nolo contendere, which sentence shall be in accordance with § 23-1A-22 or
13 schedules adopted pursuant to subdivision 16-2-21(8). However, if the offense or violation is not
14 covered by said schedules, the magistrate court may impose a sentence of a fine as authorized
15 by statute, ordinance, bylaw, or police regulation or two hundred dollars, whichever is less.
16 Acceptance of not guilty or nolo contendere pleas shall be in accordance with §§ 23A-7-2 and
17 23A-7-8, as applicable.

18 Section 39. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
19 as follows:

20 A magistrate court with a clerk magistrate presiding has concurrent jurisdiction with the
21 circuit courts to take forfeitures of appearance bonds for violation of any ordinance, bylaw, or
22 other police regulation of a political subdivision in accordance with schedules adopted pursuant
23 to subdivision 16-2-21(8).

24 Section 40. That chapter 16-12C be amended by adding thereto a NEW SECTION to read

1 as follows:

2 A magistrate court with a clerk magistrate presiding has concurrent jurisdiction with the
3 circuit courts, in noncontested civil actions or noncontested small claims proceedings where the
4 amount of money or damage does not exceed eight thousand dollars, to take the necessary
5 evidence and to enter a judgment.

6 Section 41. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
7 as follows:

8 Except in small claims proceedings, a verbatim record of all proceedings and evidence at
9 trials before a clerk magistrate shall be maintained either by electrical devices or by stenographic
10 means, as the magistrate may direct. However, if any party to the action requests stenographic
11 reporting of the proceedings, the reporting shall be done stenographically. The requesting party
12 in a civil matter shall pay the costs of reporting the proceedings. If no record is kept, the appeal,
13 if appeal is authorized by law, shall be de novo in circuit court.

14 Section 42. That chapter 16-12C be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Unless appeal is denied by law, there is a right of appeal to the circuit court from any final
17 order or judgment of the magistrate court with a clerk magistrate presiding, and such appeal shall
18 be taken in the manner prescribed by law or rule for appeals to the circuit court.

19 Section 43. That §§ 16-12A-1 to 16-12A-3, inclusive, 16-12A-3.2, 16-12A-4, 16-12A-5 to
20 16-12A-7, inclusive, and 16-12A-8 to 16-12A-30, inclusive, be repealed.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

556I0285

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1061 - 01/24/2003

Introduced by: Representatives Hennies, Madsen, and McCaulley and Senators Vitter, Abdallah, Albers, Duniphan, Reedy, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the crime of bestiality and to prescribe certain
2 penalties therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may:

7 (1) Engage in a sexual act with an animal for the purpose of that person's sexual
8 gratification;

9 (2) Coerce any other person to engage in a sexual act with an animal;

10 (3) Engage in a sexual act with an animal in the presence of a minor;

11 (4) Use any part of the person's body or an object to sexually stimulate an animal;

12 (5) Videotape a person engaging in a sexual act with an animal; or

13 (6) Kill or physically abuse an animal for the purpose of that person's sexual gratification.

14 Any person who violates any provision of this section is guilty of the crime of bestiality.

15 Bestiality is a Class 6 felony. However, if any person has been previously convicted of a sex



1 crime pursuant to § 22-22-30, any subsequent violation of this section is a Class 5 felony.

2 Section 2. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 For the purposes of section 1 of this Act, the term, sexual act with an animal, means any act
5 between a person and an animal involving direct physical contact between the genitals of one and
6 the mouth or anus of the other, or direct physical contact between the genitals of one and the
7 genitals of the other. A sexual act with an animal may be proved without evidence of penetration.

8 Section 3. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The provisions of section 1 of this Act do not apply to or prohibit normal, ordinary, or
11 accepted practices involved in animal husbandry, artificial insemination, or veterinary medicine.

12 Section 4. That § 22-22-30 be amended to read as follows:

13 22-22-30. For the purposes of §§ 22-22-31 to 22-22-39, inclusive, a sex crime is any of the
14 following crimes regardless of the date of the commission of the offense or the date of
15 conviction:

- 16 (1) Rape as set forth in § 22-22-1;
- 17 (2) Sexual contact with a minor under sixteen as set forth in § 22-22-7 if committed by
18 an adult and the adult is convicted of a felony;
- 19 (3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2 if
20 committed by an adult;
- 21 (4) Incest as set forth in § 22-22-19.1 if committed by an adult;
- 22 (5) Possessing, manufacturing, or distributing child pornography as set forth in
23 § 22-22-24.2;
- 24 (6) Sale of child pornography as set forth in § 22-22-24;

- 1 (7) Sexual exploitation of a minor as set forth in § 22-22-24.3;
- 2 (8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;
- 3 (9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2 (2);
- 4 (10) Criminal pedophilia as set forth in § 22-22-30.1;
- 5 (11) Felony indecent exposure as set forth in former § 22-24-1 or indecent exposure as set
- 6 forth in § 22-24-1.2;
- 7 (12) Solicitation of a minor as set forth in § 22-22-24.5;
- 8 (13) Bestiality as set forth in section 1 of this Act;
- 9 (14) An attempt to commit any of the crimes listed in this section;
- 10 ~~(14)~~(15) Any crime committed in a place other than this state which would constitute
- 11 a sex crime under this section if committed in this state;
- 12 ~~(15)~~(16) Any federal crime or court martial that would constitute a sex crime under
- 13 federal law; or
- 14 ~~(16)~~(17) Any crime committed in another state if that state also requires that anyone
- 15 convicted of that crime register as a sex offender in that state.